

**Hearing Date: October 13, 2016 at 10:00 a.m. (Eastern Time)**  
**Objection Deadline: October 3, 2016 at 4:00 p.m. (Eastern Time)**

Wendy Alison Nora, *pro hac vice*  
Attorney for Claimant Tia Danielle Smith  
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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:	)	Case No. 12-12020 (MG)
RESIDENTIAL CAPITAL, LLC, et al.,	)	Chapter 11
Debtors.	)	Jointly Administered
	)	

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LIMITED OBJECTION TO MOTION OF POSINELLI, COUNSEL  
FOR THE KESSLER AND MITCHELL CLASS CLAIMANTS  
ON BEHALF OF THE RESCAP BORROWER CLAIMS TRUST  
FOR ORDER AUTHORIZING INTERIM DISTRIBUTION  
AND ESTABLISHING DISPUTED CLAIMS RESERVE

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**NOW COMES** Tia Danielle Smith (Ms. Smith), by her attorney, Wendy Alison Nora of ACCESS LEGAL SERVICES, *pro hac vice*, and objects, on a limited basis to the Motion of POSINELLI for Order Authorizing Interim Distribution of and Establishing Disputed Claims Reserve (Doc. 10136 and 10137) and shows the Court:

1. POSINELLI represents the “Kessler Class” Claimants (Claim No. 2110, filed on November 2, 2012 (reported as UNLIQUIDATED and SECURED); Claim No. 2117, filed on November 2, 2012 (reported as UNLIQUIDATED and GENERAL UNSECURED); Claim No.

2254, filed on November 5, 2012 (reported as UNLIQUIDATED and SECURED); Claim No. 5596 (reported as UNLIQUIDATED and SECURED), according to the Claims Registry at <http://www.kccllc.net/rescap/creditor/search/result/>) and attached hereto as Exhibit A.

2. In January, 2016, the search results from the Claims Registry at reported a different result at <http://www.kccllc.net/rescap/creditor/search/result/> upon which counsel for Ms. Smith researched when prepared the now dismissed Adversary Case No. 16-1015 for filing.

3. To the best of the recollection of counsel for Ms. Smith, the Claim of the “Kessler Class” then appeared to report that a Claim Nos. 2117, 2254 and 5596 were withdrawn or expunged and that Claim No. 2110 was reported in the amount of \$300,000,000.00.

4. The “Mitchell Class” Claimants (Claim 7354, filed on January 17, 2014,<sup>1</sup> in the amount of \$14,500,000.00) are also represented by POSINELLI.

5. There appears to be a conflict of interest between POSINELLI and the RESCAP Borrower Claims Trust because POSINELLI represents the holder of the largest surviving undisputed “Borrower” claim and what appears to be a late-filed claim in the second largest surviving undisputed “Borrower Claim.”

6. There also appears to have been preferential treatment of the “Kessler Class” Claim exclusive “Cooperation Agreement” between the Kessler Class and the Liquidating Trust (Doc. 5342-10), executed as of the effective date of the Chapter 11 Plan (December 17, 2013), by which the LIQUIDATING TRUST and the Kessler Class are allowed to pursue recovery for payment of their claims from insurance policies which potentially total coverage in the amount of

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<sup>1</sup> The Claims Bar Date was November 16, 2012 (Doc. 2093).

\$400,000,000,000.00 (Four Hundred Billion Dollars) and from which the individual homeowners, whose claims are being administered by the CLAIMS TRUST have been barred and excluded.

6. Ms. Smith's first limited objection is that POSINELLI may not represent the Kessler Class and the Mitchell Class Claimants and the RESCAP Borrower Claims Trust in filing the Motion to distribute funds to the Kessler and Mitchell Class Claimants.

7. Ms. Smith's second limited objection is to the unnecessary language which alleges that her Proofs of Claim Nos. pending on appeal are not entitled to any reserve treatment, whereas the Claimants whose appeals have resulted in remand or which have not yet been tried are allowed reserve treatment.

8. Finally, Ms. Smith's third limited objection is to POSINELLI's conclusory language that her Proofs of Claim were for an excessive and highly inappropriate amount and that her claims are preventing holders of allowed claims from receiving the distributions to which they are entitled, without an evidentiary basis.

9. Ms. Smith reserves her right to supplement this limited objection with additional evidence and requests an evidentiary hearing if the Court does not deny POSINELLI's Motion for conflict of interest and lack of evidence.

**WHEREFORE**, Ms. Smith requests that the Court deny POSINELLI's Motion for the reasons stated herein.

Dated at Madison, Wisconsin this 3<sup>rd</sup> day of October, 2016.

*/s/ Wendy Alison Nora*

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**DECLARATION OF UNDER PENALTY OF PERJURY**

Wendy Alison Nora declares, under penalty of perjury pursuant to 28 U.S.C. sec. 1746 that the facts set forth in the foregoing Limited Objection are true and correct to the best of her knowledge, information and belief and that Exhibits A and B attached hereto are true and correct copies of what they purport to be.

*/s/ Wendy Alison Nora*

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Wendy Alison Nora

**DECLARATION OF SERVICE**

Wendy Alison Nora declares, under penalty of perjury, that she filed the foregoing Limited Objection by CM/ECF on October 3, 2016 and thereby served all parties capable of service by CM/ECF.

*/s/ Wendy Alison Nora*

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Wendy Alison Nora

# EXHIBIT A



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[Client Login](#)

Case Number: 12-12020

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[« Go back](#)

## Claim Search Results

Filter applied: **Debtor(s):** All Debtors **Creditor Name:** Contains "Drennen" **Claim Amount Type:** Filed Claim Amount

**Claim Number:** 2117 [Download PDF](#)

**Name:** [Rowena Drennen, Flora Gaskin, Roger Turner, Christie Turner, John Picard & Rebecca Picard et al.](#)

**Filed Claim Amount:** UNLIQUIDATED

**Date Claim Filed:** 11/2/2012

**Debtor:** Residential Capital, LLC

**Filed Claim Nature:** General Unsecured

**Claim Number:** 2110 [Download PDF](#)

**Name:** [Rowena Drennen, Flora Gaskin, Roger Turner, Christie Turner, John Picard & Rebecca Picard et al.](#)

**Filed Claim Amount:** UNLIQUIDATED

**Date Claim Filed:** 11/2/2012

**Debtor:** Residential Funding Company, LLC

**Filed Claim Nature:** Secured

**Claim Number:** 2254 [Download PDF](#)

**Name:** [Rowena Drennen, Flora Gaskin, Roger Turner, Christie Turner, John Picard, and Rebecca Picard et al.](#)

**Filed Claim Amount:** UNLIQUIDATED

**Date Claim Filed:** 11/5/2012

**Debtor:** GMAC-RFC Holding Company, LLC

**Filed Claim Nature:** Secured

**Claim Number:** 5596 [Download PDF](#)

**Name:** [Rowena Drennen, Flora Gaskin, Roger Turner, Christie Turner, John Picard, and Rebecca Picard on Behalf of Themselves](#)

**Filed Claim Amount:** UNLIQUIDATED

**Date Claim Filed:** 11/16/2012

**Debtor:** GMAC Mortgage, LLC

**Filed Claim Nature:** Secured

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Without limiting the generality of the foregoing, any failure by a debtor to designate a claim listed on the Schedules as "disputed", "contingent", or "unliquidated" does not constitute an admission that such amounts are not "disputed", "contingent", or "unliquidated". Further, each debtor reserves the right to amend their Schedules and Statements of Financial Affairs as necessary and appropriate. Debtors further reserve the right to dispute, on any grounds, or to assert offsets or defenses to, any claim reflected on their schedules or filed against a Debtor, including objecting to the amount, liability classification or priority of such claim, or to otherwise subsequently designate any claim as "disputed", "contingent", or "unliquidated".





# EXHIBIT B



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[Client Login](#)

Case Number: 12-12020

[Case Home](#)



[« Go back](#)

## Claim Search Results

Filter applied: **Debtor(s):** All Debtors **Creditor Name:** Contains "Mitchell" **Claim Amount Type:** Filed Claim Amount

**Claim Number:** 5662 [Download PDF](#)

**Name:** [Estate of Felecia Victoria Mitchell](#)

**Filed Claim Amount:** \$62,313.77

**Date Claim Filed:** 11/16/2012

**Debtor:** GMAC Mortgage, LLC

**Filed Claim Nature:** General Unsecured

**Claim Number:** 5724 [Download PDF](#)

**Name:** [Estate of Felecia Victoria Mitchell](#)

**Filed Claim Amount:** \$62,313.77

**Date Claim Filed:** 11/16/2012

**Debtor:** GMAC Mortgage, LLC

**Filed Claim Nature:** General Unsecured

**Claim Number:** 5453 [Download PDF](#)

**Name:** [Franklin Delano Mitchell and Melinda Ardell Mitchell](#)

**Filed Claim Amount:** \$569,515.89

**Date Claim Filed:** 11/16/2012

**Debtor:** Residential Capital, LLC

**Filed Claim Nature:** General Unsecured

**Claim Number:** 5453 [Download PDF](#)

**Name:** [Franklin Delano Mitchell and Melinda Ardell Mitchell](#)

**Filed Claim Amount:** \$189,838.63

**Date Claim Filed:** 11/16/2012

**Debtor:** Residential Capital, LLC

**Filed Claim Nature:** Secured

**Claim Number:** 5019 [Download PDF](#)

**Name:** [Linda M. Chavers aka Linda Marie Mitchell](#)

**Filed Claim Amount:** \$24,120.32

**Date Claim Filed:** 11/15/2012

**Debtor:** Residential Capital, LLC

**Filed Claim Nature:** General Unsecured

**Claim Number:** 2056 [Download PDF](#)

**Name:** [Mitchell and Cheryl Riley](#)

**Filed Claim Amount:** BLANK

**Date Claim Filed:** 11/1/2012

**Debtor:** Residential Capital, LLC

**Filed Claim Nature:** General Unsecured

**Claim Number:** 4548 [Download PDF](#)

**Name:** [Mitchell H Nappier](#)

**Filed Claim Amount:** UNLIQUIDATED

**Date Claim Filed:** 11/13/2012

**Debtor:** Residential Capital, LLC

**Filed Claim Nature:** General Unsecured

**Claim Number:** 1108 [Download PDF](#)

**Name:** [Robert and Jurell Mitchell](#)

**Filed Claim Amount:** \$73,580.45

**Date Claim Filed:** 10/10/2012

**Debtor:** Residential Capital, LLC

**Filed Claim Nature:** Secured

**Claim Number:** 1949 [Download PDF](#)

**Name:** [Robert and Jurell Mitchell](#)

**Filed Claim Amount:** \$173,530.15

**Date Claim Filed:** 10/29/2012

**Debtor:** Residential Capital, LLC

**Filed Claim Nature:** Secured

**Claim Number:** 7354 [Download PDF](#)

**Name:** [The Mitchell Settlement Class](#)

**Filed Claim Amount:** \$14,500,000.00

**Date Claim Filed:** 1/17/2014

**Debtor:** Residential Funding Company, LLC

**Filed Claim Nature:** General Unsecured

**Claim Number:** 3645 [Download PDF](#)

**Name:** [Velma R. Mitchell](#)

**Filed Claim Amount:** UNLIQUIDATED

**Date Claim Filed:** 11/8/2012

**Debtor:** GMAC Mortgage, LLC

**Filed Claim Nature:** General Unsecured

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Without limiting the generality of the foregoing, any failure by a debtor to designate a claim listed on the Schedules as "disputed", "contingent", or "unliquidated" does not constitute an admission that such amounts are not "disputed", "contingent", or "unliquidated". Further, each debtor reserves the right to amend their Schedules and Statements of Financial Affairs as necessary and appropriate. Debtors further reserve the right to dispute, on any grounds, or to assert offsets or defenses to, any claim reflected on their schedules or filed against a Debtor, including objecting to the amount, liability classification or priority of such claim, or to otherwise subsequently designate any claim as "disputed", "contingent", or "unliquidated".